

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10

11 *,) CASE NO. CV*-AHM (*x)
12 Plaintiff(s),)
13 v.) ORDER SETTING RULE 16(b)
14 *,) SCHEDULING CONFERENCE
15 Defendant(s).)
16)
17 _____)
18

Date: *
Time: 1:30 p.m.

19 This case has been assigned to Judge A. Howard Matz. If plaintiff has not
20 already served the complaint (or any amendment thereto) on all defendants,
21 plaintiff shall promptly do so and shall file proofs of service within three days
22 thereafter. Defendants also shall timely serve and file their responsive pleadings
23 and file proofs of service within three days thereafter.

24 This matter is set for a scheduling conference on the above date. The
25 conference will be held pursuant to Fed.R.Civ.P. 16(b). The parties are reminded
26 of their obligations under Fed.R.Civ.P. 26(a)(1) to disclose information (without
27 awaiting a discovery request) and under R. 26(f) to confer on a discovery plan not
28 later than twenty-one (21) days prior to the scheduling conference and to file a

1 report with the Court entitled “Joint Rule 16(b) Report” not later than fourteen
2 (14) days after they confer. Failure to comply with the following requirements or
3 to cooperate in the preparation of the Joint Rule 16(b) Report may lead to the
4 imposition of sanctions.

5 **Unless there is a likelihood that upon motion by a party the Court**
6 **would order that any or all discovery is premature, it is advisable for counsel**
7 **to begin to conduct discovery actively before the Scheduling Conference. At**
8 **the very least, the parties shall comply fully with the letter and spirit of**
9 **Fed.R.Civ.P. 26(a) and thereby obtain and produce most of what would be**
10 **produced in the early stage of discovery, because at the Scheduling**
11 **Conference the Court will impose tight deadlines to complete discovery.**

12 **1. Joint Rule 16(b) Report.**

13 The Joint Rule 16(b) Report, which shall be filed not later than one week
14 before the scheduling conference, shall be drafted by plaintiff (unless the parties
15 agree otherwise), but shall be submitted and signed jointly. “Jointly”
16 contemplates a single report, regardless of how many separately-represented
17 parties there are. The Joint Rule 16(b) Report shall report on all matters
18 enumerated below, which include those required to be discussed by Rule 26(f) and
19 Local Rule 26:

- 20 a. **a short synopsis** (not to exceed two pages) of the main claims,
21 counterclaims, and/or affirmative defenses.
- 22 b. a brief description of the **key legal issues**.
- 23 c. the realistic range of **provable damages**.
- 24 d. whether there is **insurance coverage**.
- 25 e. a statement of the **likelihood of motions** seeking to (i) add other
26 parties or claims or (ii) file amended pleadings or (iii) transfer venue.
- 27 f. **Discovery and Experts**. Pursuant to Rule 26(f), state what, if any,
28 changes in the disclosures under R. 26(a) should be made; the

1 subjects on which discovery may be needed and whether discovery
2 should be conducted in phases or otherwise be limited; what issues
3 exist or are likely to arise, and what agreements (if any) have been
4 reached concerning the identification maintenance and production of
5 electronically stored information; what discovery has been conducted
6 thus far; whether applicable limitations should be changed or other
7 limitations imposed; and whether the Court should enter other orders.
8 Please state how many depositions each side will conduct. Also
9 discuss the proposed time of **expert witness disclosures** under
10 F.R.Civ.P. 26(a)(2).

- 11 g. a description of the issues or claims that any party believes may be
12 determined by motion for **summary judgment or motion *in limine***.
- 13 h. a statement of what **settlement** discussions and/or written
14 communications have occurred (specifically excluding any statement
15 of the terms discussed) and a statement pursuant to the Local Rule
16 16-14.4 selecting a settlement mechanism under that rule.
- 17 i. a realistic (not padded) **estimate of the time required for trial** and
18 whether trial will be by jury or by court. Each side should specify
19 (by number, not by name) how many witnesses it contemplates
20 calling. If the time estimate for trial given in the Rule 16(b) Joint
21 Report exceeds eight court days, counsel shall be prepared at the
22 Scheduling Conference to explain why a lengthier trial is estimated.
- 23 j. **Presumptive Schedule of Pretrial Dates.** The parties should fill in
24 the form attached as Exhibit A to this Order and attach it to the Rule
25 16(b) report. *The pre-printed entries in the “Weeks Before Trial”*
26 *column merely reflect what the Court believes are appropriate for*
27 *many, if not most, cases; those entries are not necessarily applicable*
28 *to this case. (Thus, in most cases there will be 14 weeks between the*

1 non-expert discovery cutoff and trial.) You should use the form to
2 request the Court to set different last dates by which the key
3 requirements must be completed. Each side should write in the
4 month, day and year it requests for each event. E.g., for the expert
5 discovery cut-off, it might be "10/7/06" for plaintiff and "10/28/06"
6 for defendant, if they cannot agree. At the conference, the Court will
7 review this form with counsel. Each entry proposing dates shall fall
8 on a Monday, except the trial date which is a Tuesday. In appropriate
9 cases the Court will order different dates after it hears from Counsel.

10 **The proposed non-expert and expert discovery cut-off date**

11 **means:** The last day by which all depositions must be completed and
12 responses to all previously-served written discovery must be
13 provided. **It does not mean** the last day to initiate discovery or to
14 file a motion with the magistrate judge seeking to compel discovery.

15 **The proposed cut-off date for motions means:** The last date on
16 which motions may be heard, not noticed.

- 17 k. a statement of any **other issues affecting the status or management**
18 of the case (e.g., unusually complicated technical or technological
19 issues, disputes over protective orders, extraordinarily voluminous
20 document production, non-English speaking witnesses, discovery in
21 foreign jurisdictions, etc.).
- 22 l. **for conflict purposes**, corporate parties must identify all
23 subsidiaries, parents and affiliates.
- 24 m. **Patent Cases:** Propose dates and methodology for claim
25 construction and *Markman* hearings.
- 26 n. **Do the parties wish to have a Magistrate Judge preside?** Under
27 28 U.S.C. § 636, the parties may consent to have a Magistrate Judge
28 preside over all the proceedings, not just discovery. They may pick

1 any Magistrate Judge (not just the one assigned to this case) from
2 among those Magistrate Judges who accept these designations.
3 (They are identified on the Central District's website, which also
4 contains the consent form.)

5 The Joint Rule 16(b) Report should set forth the above enumerated
6 information under section headings corresponding to this Order.

7 **2. Scheduling Conference.** The Scheduling Conference will be held in
8 Courtroom 14 of the Federal Courthouse at 312 N. Spring Street. Counsel shall
9 comply with the following:

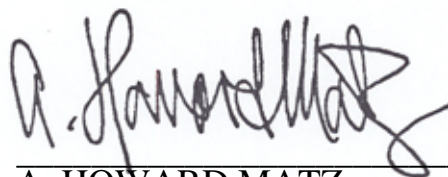
- 10 a. Participation. The lead trial attorney must attend the Scheduling
11 Conference, unless excused for good cause shown in advance of the
12 Scheduling Conference.
- 13 b. Continuance. A continuance of the Scheduling Conference will be
14 granted only for good cause.
- 15 c. Use of Conference Telephone. If one or more of the lead counsel has
16 his or her office outside of Los Angeles County, the Court is
17 normally willing, at counsel's request, to conduct the status
18 conference by conference telephone call. Please contact the court
19 clerk at (213) 894-5283 to get approval. Opposing counsel who are
20 outside of Los Angeles County may also participate by telephone.
21 The attorney who has received approval to participate by telephone
22 shall call (213) 894-5290 at the time and date specified above for
23 specific instructions, which might include being required to remain
24 available on the telephone until the case is called. After the other
25 participants are assembled, that attorney will be notified that he or
26 she must promptly originate the conference call.

1 **3. Protective Orders.** If you seek a protective order, propose it to opposing
2 counsel before the Scheduling Conference, if at all possible. In a separate order,
3 the Court has enumerated precise requirements for protective orders and the
4 treatment of confidential information. In proposing a protective order for this
5 case, please comply with that order, which is available on the Court's website.
6 **4. Notice to be Provided by Counsel.** Plaintiff's counsel or, if plaintiff is
7 appearing *pro se*, defendant's counsel, shall provide this Order to any parties who
8 first appear after the date of this Order and to parties who are known to exist but
9 have not yet entered appearances.
10 **5. Disclosures to Clients.** Counsel are ordered to deliver to their respective
11 clients a copy of this Order and of the Court's Scheduling and Case Management
12 Order, which contains the schedule that the Court imposes at the Scheduling
13 Conference.
14 **6. Court's Website.** Copies of this and all other orders of this Court that may
15 become applicable to this case are available on the Central District of California
16 website, at "www.cacd.uscourts.gov," under "Judge's Requirements." Copies of
17 the Local Rules are available on the website.¹

18 The Court thanks the parties and their counsel for their anticipated
19 cooperation in carrying out these requirements.

20 IT IS SO ORDERED.

21
22 Dated: March 14, 2007



23 A. HOWARD MATZ
24 United States District Judge

25 ¹ They may also be purchased from one of the following:

26 Los Angeles Daily Journal
27 915 East First Street
28 Los Angeles, CA 90012

West Publishing Company
50 West Kellogg Blvd.
St. Paul, MN 55164-9979

Metropolitan News
210 South Spring Street
Los Angeles, CA 90012

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Copies to:
All Counsel of Record